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REMARKS

Claims 1-5 have been cancelled. New claim 10 has been added to reflect the equivalency of speakers and audio devices as set forth in the Office Action on pages 3 and 4. Claims 6-9 and new claim 10 which depends from independent claim 6 stand rejected under 35 USC 103(a) over Birrell et al. (US6,332,175). The rejection of claims 6-10 is respectfully traversed.

FOR ADMINISTRATIVE PURPOSES, IT MUST BE NOTED THAT ORIGINAL CLAIMS 6-9 AND NEW CLAIM 10 WERE FIRST AND ONLY REJECTED IN THE OFFICE ACTION TRANSMITTED TO APPLICANTS ATTORNEY ON FEBRUARY 23, 2005 BY FACSIMILE

The original rejection herein did not reject claims 6-9. When this was brought to Examiners attention, the present Office Action was sent to Applicant's Attorney by facsimile on February 23, 2005. By telephone, Examiner advised Attorney that a formal version setting a new period for response was being mailed to Applicant's Attorney. Such a new Office Action has not been received. According, in order to expedite this prosecution, Applicant is by this amendment responding to the fascimiled Office Action of February 23, 2005, and respectfully requests that this response be treated as a timely response, and that Applicant not be penalized by additional fee or otherwise for any delay resulting form Patent Office oversights.

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09/785,757**Applicant's Argument**

Claims 6-10 are submitted to be unobvious over Birrell (US6,332,1750 under 35 USC 103(a)). Birrell fails to even hint the method of claimed doing business as described in the specification (page 4, lines 14-28); there is provided a method of doing business whereby a purchaser of a portable audio system may be provided with a library of titles to be preselected by this purchaser and stored in the portable audio system. The purchaser may be provided access via the Internet to one or many databases, each having a plurality of music titles, each title respectively represented by stored MP3 compressed digital data and the purchaser enabled to select a set of said music titles, which then may, in turn, be copied as MP3 compressed digital data representative of the set of purchaser selected music titles to the hard disk drive having at least 10 gigabytes of storage capacity within the housing of a portable audio system being of the purchaser. As set forth on page 6 of the specification, the invention involves the marketing of portable audio systems wherein the purchaser is provided with the ability of selecting a personalized library of 150 hours or more of music titles selected from almost an infinite number of titles available through the Internet.

This method of doing business is defined in independent claim 6: providing the purchaser of an audio system with a library of compressed MP3 titles in a data base, from which the purchaser is enabled to select a set of music titles and copy such titles to a hard drive of at least 10 gigabytes within a portable audio system.

Even if, as Examiner argues, Birrell shows a portable audio system with a hard drive of music titles, the reference does not disclose the business method of maintaining a database of MP3 compressed music titles,

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enabling a purchaser to buy a set which the purchaser is then permitted to copy into hard drive of the purchaser's portable audio system.

In view of the foregoing, claims 6-10 are submitted to be in condition for allowance, and such allowance is respectfully requested.

Respectfully submitted,

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